

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re JESSE B., et al., Persons
Coming Under the Juvenile
Court Law.

B290077

(Los Angeles County
Super. Ct. No. DK23656)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JAMES B.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Nancy Ramirez, Judge. Affirmed.

John Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Jeanette Cauble, Principal Deputy County Counsel for Plaintiff and Respondent.

Father James B. appeals from the jurisdictional findings and dispositional order of the juvenile court concerning his sons Jesse B. and Dalton B. We conclude that substantial evidence supports the court's jurisdictional findings and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prior Child Welfare History

Father, Mother Alexa D., and the two children came to the attention of the Department of Children and Family Services in 2012 when a report was made that an adult cousin was abusing Jesse. Although the report of physical abuse was determined to be unfounded, the condition of the family home led to a substantiated general neglect allegation. The family agreed to a voluntary family maintenance case, and DCFS indicated that it would seek funds to purchase a new refrigerator and necessary household items for the family.

The family was the subject of three referrals in 2014. In January, DCFS received a report that the family home was unsanitary and uninhabitable. Jesse and Dalton were unkempt. The allegation of general neglect was determined to be substantiated, and DCFS noted that the parents had a history of an unclean home. Voluntary family maintenance services were again provided "to improve the quality of conditions the children are living in."

In February, DCFS found the family home "unlivable. The carpet was severely dirty. It was sticky and when she walked in the [reporting party] was sticking on the carpet. There were things piled up with dust. The walls were dirty and thick with dust. The room held a strong odor of cat urine. The mother told [the reporting party] that the cats help keep the mice away."

Three other houses on the property had already been condemned and boarded up, and the reporting party believed this house should be condemned as well.

In May, Mother and Father were again determined by DCFS to have neglected the children. The children's older half-sibling, Nichole E., appeared not to understand the importance of tending to personal hygiene. Nichole reported that the home had asbestos, was leaking water, and was filthy. A referral was generated for Jesse and Dalton, and the family's history of an unclean home was noted.

II. Present Investigation and Proceedings

Mother, Jesse, and Dalton moved into a new home in January 2017, and the children were enrolled in a new school. School staff soon noticed that Jesse had multiple bites on his arms. Jesse frequently asked to see the school nurse to ask how to get rid of his rash. He scratched and picked at his scabs until they bled. The school inquired about the bites, and Nichole told them that Jesse was being treated with hydrocortisone.

A reporting party associated with the school told DCFS on February 2, 2017, that the children were covered with "thousands" of bites. Jesse said that they were bed bug bites he got while sleeping on an old mattress. Jesse's teacher stated that Jesse smelled bad and wore the same clothes repeatedly. Dalton's teacher reported that he wore the same clothes on several days and that his pants were far too short.

On February 3, the school district nurse conducted a welfare check at the home. Mother had the same bites on her arms; she said it was a strep infection. A man in the home said he was taking medication for a rash on his neck and chest. The home was filthy.

DCFS interviewed the children in early February. Dalton's pants were several inches too short, and Jesse's shirt was dirty, but neither child smelled bad. Jesse (age 11) scratched numerous bites on his arms and showed the social worker bites on his torso. He told DCFS that he had been scratching the bites for three months. Dalton (age 9) scratched many small red bumps on his exposed skin. The children said their mother had treated the bites with a cream and with an anti-itch spray until the spray ran out. Jesse explained that they wore the same clothes to school repeatedly because their family could not afford new clothes. Dalton reported showering every other day. Jesse said he had only seen a dentist once and that it had been a long time since he had gone to the doctor. Jesse said that there were rats in their home.

Mother told DCFS that she had not sought medical attention for the bites; she was treating them with lotion. Mother confirmed the children had not seen a dentist or doctor since 2015. She said the children each had a clean shirt daily and suggested they stained their shirts at school. She explained that Dalton had pants that fit but he preferred the too-short ones because they stretched and were easier to remove.

DCFS spoke with Father on February 12. The children visited him on the weekends. He was aware of the children having bed bug bites and said he provided them with medicine he purchased from a pharmacy. He believed the bites were dust mite bites that the children received from sawdust at a park. Father said he was aware of the allegations that the children wore dirty clothes, but he believed they stained their clothes at school.

In mid-March, Mother permitted Nichole to take the children to the hospital; Mother said this was “[a]gainst my better judgment.” The children were diagnosed with scabies and prescribed medication. On April 6, staff at the children’s school told DCFS that Jesse still had a rash on his arms and that the children “c[ame] to school filthy in dirty clothes.”

Although the home had appeared clean when DCFS visited on April 2, on April 10 DCFS discovered that the home had no electricity and almost no food. DCFS and Mother agreed that the children would spend the night at the home of a family friend until the power was turned on the following day.

Mother said the children contracted the rash in their prior residence, which had bed bugs. She also attributed the rash to stress, and said it recently had worsened because law enforcement came to the home to investigate possible elder abuse of the children’s maternal grandmother. Mother said she was applying hydrocortisone cream to stop the itching from the rash; she had received medication when the doctor diagnosed the children with scabies, but she had run out of it. She said she had been trying to clear up the rash by spraying a wound care product on it but was unsuccessful. She had not taken the children to the doctor for a follow-up appointment because their Medi-Cal insurance had been terminated. Mother told DCFS that she planned to get the insurance reinstated. Mother also reported that Father picked up the children on Friday evenings and returned them to her on Sunday evenings.

DCFS spoke with Father on April 11. Father reported that he and Mother were in the process of divorcing but there was no family law order in place. He was able to visit the children whenever he asked. Father said he had not been aware that the

family lacked electricity and food. He said that he gave Mother money frequently and that he had sent her \$160 the day before for groceries. Father told DCFS that he was very shocked to learn of the problems and said he had no idea what was going on. He described Mother as a good mother. Father had seen “a bunch of bites” on Jesse but believed that Jesse had received the bites at the park. He did not think that Jesse had scabies, and he did not have information about Jesse’s doctor visit or medication. He said he was not aware of the children having any medical problems. He did not know when they last saw a doctor or dentist. Father asked DCFS to contact him if the children needed to be picked up.

On April 11, when DCFS visited the home again, Mother reported that the power had not been turned on because the utility requested a rental agreement before starting service. Mother reported that the power would be turned on the next day. Mother and Nicole showed the social worker that the refrigerator had been cleaned and a sufficient amount of dry food purchased. The children remained with the family friend for another night.

DCFS told Mother that Father had been notified of the referral and had offered to help with the children. Mother claimed that the children did not like their father and were afraid of him because he was strict with them. Mother denied that Father provided financial support to the children.

Also on April 11, DCFS spoke with the children, both of whom were wearing dirty, too-small clothes. Jesse had multiple round bite-like marks on his arms, legs, stomach, and chest, which he described as itchy but not painful. Jesse scratched his stomach and arms throughout his interview. Jesse reported eating breakfast, snack, and lunch at school and receiving a

snack at afterschool care. He said that he received dinner at a family friend's home and that sometimes his mother bought pizza. Jesse denied being afraid to go to his father's home or being afraid of Father. He said he liked to visit his paternal grandmother, with whom Father resided.

Dalton had scabs on his arms and legs and scratched his chest area as he spoke, but stopped scratching when the social worker asked if he was itchy. He reported that the family had pizza for dinner and he had eaten a snack at school. He denied that the family lacked food.

A neighbor told DCFS that people came and went from the home at all hours. She had seen two children there who were "so dirty that I wanted to offer to buy them clothes." They were not well cared for or properly supervised.

During an April 13 home visit, Jesse's therapist observed that both Jesse and Mother had scabs and a rash on their arms and that Jesse constantly scratched himself. The therapist thought the home was an unsuitable environment and expressed concern for both children.

On April 14 Nichole reported that the power was still not on but was expected to be connected within the next few days. On April 24, she advised DCFS that the utility required a death certificate for the previous occupant of the property. DCFS believed that the family may have been residing without permission in the home.

Although Mother had agreed to take the children for medical care, she failed to do so and repeatedly claimed that the medical hub did not return her telephone calls. The medical hub eventually returned the referral to DCFS because Mother did not respond to messages or schedule an appointment. Mother also

failed to respond to telephone calls from the provider to whom Jesse had been referred for psychotropic medication, and she did not follow up on appointments. Mother told DCFS that she had been unable to reinstate the children's medical insurance, but Jesse's therapist told DCFS that their Medi-Cal was active.

Jesse's teacher told DCFS on April 24 that his rash had improved but persisted. He often appeared dirty and wore dirty, ripped clothes. Jesse was constantly hungry and she often gave him snacks.

On May 3, DCFS advised Mother that it planned to seek a warrant to remove the children from the home. Although Mother promised to take the children to the doctor, she did not do so; she told DCFS the following day that the rash was better. DCFS told Mother that follow-up care was needed because the condition had persisted for three months, and reminded Mother that in March the hospital had requested that the children see their doctor in two days. Mother "became upset and stated, 'I love my kids, thank you' and hung up the phone."

On May 3, DCFS expressed to Father its concerns about the children's scabies and lack of medical care, and Father responded that Jesse's rash had improved. Father said he had purchased medicine for the rash, but he did not know what it was and he did not send it home with Jesse. DCFS told Father that the children needed medical attention for the scabies, and he agreed to take them to the doctor the next day. Father said he was "mad about" the lack of electricity in the home.

The children went to stay with Father. According to the paternal grandmother, they arrived filthy and smelling bad, but they were clean and dressed appropriately in clean clothes when DCFS visited the home. Mother reported on May 9 that she had

taken the children to the hospital, but she then did not pick up the prescribed medication, stating that the pharmacy was “backed up.” Father enrolled the children in school and began treating their rash with the prescribed medication. The children’s skin gradually improved.

On May 22, 2017, DCFS filed a dependency petition under section 300, subdivision (b), alleging that Mother neglected the children medically and subjected them to a filthy and unsanitary home. At the time, Father was considered non-offending. Later, however, Dalton told DCFS that Father had seen his rash. Mother informed DCFS that Father had known that the children had scabies and that the medication had not worked. She said the doctor had told them that if the medication he prescribed did not work, they should try using lice shampoo, and Father was the person who purchased the lice shampoo. When asked if Father had understood the severity of the situation, Mother said, “He knew. He said he didn’t but he knew.” According to Mother, in early May Father had been planning to give her money for a doctor visit, but DCFS removed the children before that occurred. Mother stated that Father had been to the home where they were living, he knew there was no electricity, and he had once provided \$160 for food.

In July 2017, DCFS filed a first amended petition adding Father as an offending party, asserting that Father knew or reasonably should have known about the children’s living situation and medical condition and that he failed to obtain appropriate medical care for them. DCFS noted that Father saw the children weekly and therefore either knew or should have observed that they had skin rashes for almost two months. Father could have asked the children about the condition because

both were sufficiently verbal to discuss it. Father, like Mother, failed to take them for follow-up care. As for the living conditions, DCFS believed Father knew or should have known about the conditions in the home because he visited the children on weekends. Father knew of Mother's financial straits and provided money on one occasion for groceries. As there was no family law order in place, Father and Mother were equally responsible for ensuring the children had a safe and stable home, and both were therefore responsible for neglect.

As of late summer 2017, Mother was living in a home that smelled "very unpleasant," with unkempt rooms, dried out food left out, a non-working stove, and a foul odor in the refrigerator. Mother's home, however, was observed in December 2017 to be appropriate with no safety concerns.

As of December 2017 DCFS continued to be concerned about the medical care provided to the children by Father. Dalton had been sick for several days, and Father did not take him to the doctor. Mother took Dalton to receive medical attention. Dalton's discharge papers instructed that Dalton should see his doctor within one to two days, but Father did not comply. Father also had not taken the children to their medical hub appointment in November 2017. Father said Mother was supposed to take them to the appointment.

On April 3, 2018, the juvenile court found true the allegations of the first amended dependency petition as to both parents and declared the children dependents of the court. The court released the children to their parents and ordered family maintenance services. Father appeals.

DISCUSSION

Father contends there was insufficient evidence to support the juvenile court's determination that the children came within the jurisdiction of the court under section 300, subdivision (b). We review the juvenile court's jurisdictional findings and dispositional orders for substantial evidence. (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 560.) Under this standard of review, we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. (*Ibid.*) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the juvenile court's order, resolving all conflicts in support of the determination and indulging all legitimate inferences to uphold the juvenile court's ruling. (*In re John V.* (1992) 5 Cal.App.4th 1201, 1212.)

Father argues that the evidence was insufficient to support the jurisdictional findings in three respects: there was no substantial evidence of a current risk of serious harm to the children at the time of the jurisdictional hearing; there was no substantial evidence that he had failed to use reasonable care in treating his children's medical condition; and there was no substantial evidence that he knew or should have known of the children's living condition until DCFS informed him of it. These contentions are meritless.

Although Father contends that there was no substantial risk of serious harm at the time of the jurisdictional hearing because the children were not then living in unsanitary conditions and their scabies infections had finally been resolved, the evidence permitted the juvenile court to conclude that the

children remained at risk. The children had been subjected to severely unsanitary living conditions repeatedly over a period of more than five years, including periods of time in which they resided with both Mother and Father. DCFS had intervened on multiple occasions to provide assistance and services to the family, but the children's living conditions nonetheless returned to a critically unhealthy level. The evidence permitted the conclusion that Father had known that the children were wearing dirty clothes to school, that he had seen the conditions in the home, that he knew the children were in need of food, and that he could not be relied upon to ensure the children received necessary medical care. In the context of the parents' pattern of dangerously unsanitary living conditions and failure to provide appropriate medical care, a factfinder could reasonably conclude that the children remained at substantial risk of serious physical harm or illness despite the fact that their home was not unclean at the moment of the jurisdictional hearing while the family was under regular DCFS observation.

Father next argues that there was no substantial evidence that he had failed to provide medical care for the children when they had scabies. The children suffered from bites and/or scabies for months. They scratched constantly, and Jesse in particular scratched at his scabs until they bled. Father, an Emergency Medical Technician who spent weekends with his children, knew about their condition but did not obtain medical care for them. Although he admitted having no information about their doctor visit or their medication, Father denied that the children had scabies. There was, however, evidence that Father knew the children had scabies and that he knew that the medication had not worked. Aside from purchasing an unspecified medicine that

he could not identify and that he said he did not send home with the children after they visited, Father did not do anything to ensure that they received medical attention to treat their scabies until DCFS intervened, even though the children had Medi-Cal coverage. The evidence is sufficient to support the conclusion that Father failed to exercise reasonable care in treating his children's condition.

Finally, Father contends that the conclusion that he knew or should have known how his children were living was speculative, asserts that the condition of the children's clothing "did not mean [he] was put on notice the children were living without electricity and food in the home, or was otherwise unsanitary," and claims that DCFS failed to present substantial evidence that he knew the conditions of Mother's home prior to being informed of them by DCFS. The evidence is sufficient to support the conclusion that Father knew, or should have known, of the conditions in which the children were living. The record contained evidence that the children were filthy, wore dirty clothes, and smelled bad, and that these problems were immediately apparent to those who interacted with them. Father had subjected the children to this type of home environment before, and the family had multiple prior referrals concerning unsanitary home conditions. Father had been to the home, was aware that there was no electricity, and knew that the family needed food. The court could reasonably conclude that from his regular contact with his children and their state of hygiene, and in light of his visit to the home and the family's prior history of living in uninhabitable and filthy housing, Father either knew or should have known that his children were living in unacceptably

unsanitary conditions. Substantial evidence supported the court's jurisdictional findings.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

FEUER, J.